

106TH CONGRESS
2D SESSION

H. R. 4213

To provide expanded substantive protections for especially vulnerable consumers against abusive mortgage lending practices and to streamline the framework regulating mortgage originations.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2000

Mr. NEY introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To provide expanded substantive protections for especially vulnerable consumers against abusive mortgage lending practices and to streamline the framework regulating mortgage originations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Mortgage
5 Protection Act of 2000.”

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

1 (1) especially vulnerable consumers are not ade-
2 quately protected by current Federal law from the
3 abusive practices of a few participants in the resi-
4 dential mortgage industry;

5 (2) additional legislation is necessary and ap-
6 propriate to ensure that such consumers are better
7 protected against abusive lending practices; and

8 (3) there is a need to streamline the framework
9 regulating mortgage originations.

10 (b) PURPOSE.—The purpose of this Act is—

11 (1) to establish additional substantive protec-
12 tions for certain especially vulnerable consumers;

13 (2) to ensure that such consumers are able to
14 protect the equity in their homes;

15 (3) to initiate the process of streamlining the
16 regulatory framework for mortgage originations; and

17 (4) to clarify mortgage broker compensation.

18 **SEC. 3. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

19 (a) SECTION 103(aa)(1)(A).—Section 103(aa)(1)(A)
20 of the Truth in Lending Act (15 U.S.C. 1602(aa)(1)(A))
21 is amended by striking “by more than 10 percentage
22 points” and by striking “creditor; or” and inserting the
23 following: “creditor by more than—

1 “(i) 8 percentage points, in the case of a trans-
 2 action secured by a first-lien security interest in the
 3 property; or

4 “(ii) 9 percentage points, in the case of a trans-
 5 action secured by a subordinate-lien security interest
 6 in the property; or”.

7 (b) SECTION 103(aa)(1)(B)(i).—Section
 8 103(aa)(1)(B)(i) of the Truth in Lending Act (15 U.S.C.
 9 1602(aa)(1)(B)(i)) is amended by striking “8 percent”
 10 and inserting “6 percent, in the case of a transaction se-
 11 cured by a first-lien security interest in the property, or
 12 7 percent, in the case of a transaction secured by a subor-
 13 dinate-lien security interest in the property”.

14 (c) SECTION 103(aa)(4).—Section 103(aa)(4) of the
 15 Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended
 16 by striking “For purposes of paragraph (1)(B),” and in-
 17 serting “For purposes of paragraph (1)(B) and section
 18 129(h) of this Act”.

19 (d) SECTION 103(aa)(5).—Section 103(aa)(5) of the
 20 Truth in Lending Act (15 U.S.C. 1602(aa)(5)) is amended
 21 by inserting after “extension of credit” the following: “,
 22 except as provided in section 129(h) of this Act”.

23 (e) SECTION 129.—Section 129 of the Truth in
 24 Lending Act (15 U.S.C. 1639) is amended by striking sub-
 25 sections (a) and (b), redesignating subsections (c) through

1 (i) as subsections (a) through (g), respectively, and redesi-
2 gnating subsections (j) through (l) as subsections (m)
3 through (o), respectively.

4 (f)(1) SECTION 129(a)(2).—Section 129(a)(2) of the
5 Truth in Lending Act (15 U.S.C. 1639(a)(2)), as redesign-
6 nated by subsection (e), is amended by striking subpara-
7 graphs (A) and (B) and inserting the following:

8 “(A) the amount of the penalty does not
9 exceed 3 percent of the total loan amount, if
10 the prepayment occurs during the 1-year period
11 beginning on the date on which the mortgage is
12 consummated;

13 “(B) the amount of the penalty does not
14 exceed 2 percent of the total loan amount, if
15 the prepayment occurs during the 1-year period
16 beginning on the date of expiration of the 1-
17 year period identified in subparagraph (A);

18 “(C) the amount of the penalty does not
19 exceed 1 percent of the total loan amount, if
20 the prepayment occurs during the 1-year period
21 beginning on the date of the expiration of the
22 1-year period identified in subparagraph (B);”,

23 and by redesignating subparagraphs (C) and (D) as sub-
24 paragraphs (D) and (E), respectively.

1 (2) SECTION 129(a)(2)(D).—Section 129(a)(2)(D) of
2 the Truth in Lending Act (15 U.S.C. 1639(a)(2)(D)), as
3 redesignated by subsection (e) and paragraph (1), is
4 amended by striking “5-year period” and inserting
5 “3-year period”.

6 (g) SECTION 129(e).—Section 129(e) of the Truth in
7 Lending Act (15 U.S.C. 1639(e)), as redesignated by sub-
8 section (e), is amended by striking “more than 2” and
9 inserting “any”.

10 (h) SECTION 129(h).—Section 129 of the Truth in
11 Lending Act (15 U.S.C. 1639) is amended by inserting
12 after section 129(g), as redesignated by subsection (e), the
13 following:

14 “(h) RESTRICTIONS ON THE CHARGING OF CLOSING
15 COSTS.—A creditor shall not make a mortgage referred
16 to in section 103(aa) the proceeds of which will be used
17 to pay the outstanding balance of an existing mortgage
18 referred to in section 103(aa) within 1 year of the date
19 of consummation of such existing mortgage, unless—

20 “(1) all points and fees, imposed directly or in-
21 directly by the creditor in connection with the trans-
22 action, are calculated solely on the basis of the new
23 advances received by the borrower in connection with
24 the refinancing; or

1 “(2) the annual percentage rate of the refinance
2 loan is lower by 2 or more percentage points than
3 the annual percentage rate of the existing mort-
4 gage.”.

5 (i) SECTION 129(i).—Section 129 of the Truth in
6 Lending Act (15 U.S.C. 1639) is amended by inserting
7 after section 129(h), as created by subsection (h), the fol-
8 lowing:

9 “(i) NO ENCOURAGEMENT OF DEFAULT.—A creditor
10 shall not recommend to a consumer, at any time in connec-
11 tion with the making of a mortgage referred to in section
12 103(aa), that the consumer fail to make any payment as
13 and when due and payable under the terms of any existing
14 debt obligation of the consumer.”.

15 (j) SECTION 129(j).—Section 129 of the Truth in
16 Lending Act (15 U.S.C. 1639) is amended by inserting
17 after section 129(i), as created by subsection (i), the fol-
18 lowing:

19 “(j) REPORTING OF PAYMENT HISTORY.—A creditor
20 shall report both favorable and unfavorable payment his-
21 tory information relating to any consumer of a mortgage
22 referred to in section 103(aa) to a nationally recognized
23 credit bureau at least quarterly each year.”.

24 (k) SECTION 129(k).—Section 129 of the Truth in
25 Lending Act (15 U.S.C. 1639) is amended by inserting

1 after section 129(j), as created by subsection (j), the fol-
2 lowing:

3 “(k) NO PROFIT FROM FORECLOSURE.—A creditor
4 shall not profit monetarily from the sale at foreclosure of
5 any property securing a mortgage referred to in section
6 103(aa), whether directly from such a foreclosure sale or
7 indirectly through a resale after the purchase of the prop-
8 erty by the creditor at such a foreclosure sale.”.

9 (l) SECTION 129(l).—Section 129 of the Truth in
10 Lending Act (15 U.S.C. 1639) is amended by inserting
11 after section 129(k), as created by subsection (k), the fol-
12 lowing:

13 “(l) PROVIDING A STATEMENT OF THE AMOUNT OF
14 SATISFACTION.—Upon receipt of a written or oral request,
15 a creditor or any subsequent assignee who holds a mort-
16 gage referred to in section 103(aa) shall provide a written
17 statement setting forth the amounts necessary to pay in
18 full and satisfy the debt obligation of a mortgage referred
19 to in section 103(aa) within 3 business days of receipt of
20 the request.”.

21 (n) SECTION 130(b).—Section 130(b) of the Truth
22 in Lending Act (15 U.S.C. 1640(b)) is amended by strik-
23 ing all after “the creditor or assignee notifies the person
24 concerned of the error and” and inserting “the creditor
25 or assignee—

1 “(1) in the case of a failure to comply con-
 2 sisting of a finance charge or annual percentage rate
 3 actually disclosed that is lower than that which
 4 should have been disclosed, makes whatever adjust-
 5 ments in the appropriate account are necessary to
 6 ensure that the person will not be required to pay
 7 an amount in excess of the charge actually disclosed,
 8 or the dollar equivalent of the annual percentage
 9 rate actually disclosed, whichever is lower; or

10 “(2) in the case of any other failure to comply,
 11 executes and offers to the person for execution a le-
 12 gally effective instrument that modifies the under-
 13 lying transaction such that the failure to comply is
 14 eliminated.”.

15 **SEC. 4. AMENDMENTS TO THE REAL ESTATE SETTLEMENT**
 16 **PROCEDURES ACT.**

17 (a) SECTION 4(a).—The second sentence of section
 18 4(a) of the Real Estate Settlement Procedures Act (12
 19 U.S.C. 2603(a)) is amended by striking “Such form shall
 20 conspicuously and clearly itemize all charges imposed upon
 21 the borrower and all charges imposed upon the seller in
 22 connection with the settlement and” and inserting “Such
 23 form shall conspicuously and clearly itemize all charges
 24 imposed directly upon the borrower and all charges im-
 25 posed directly upon the seller (whether paid outside of

1 closing or otherwise) in connection with the settlement.
 2 This subsection shall not be construed to require that the
 3 standard form shall itemize fees earned by any settlement
 4 service provider in connection with the transaction to the
 5 extent such fees are paid by the lender and reflect the
 6 present value of interest yielded by the federally related
 7 mortgage loan. Such form also”.

8 (b) SECTION 5(b).—Section 5(b) of the Real Estate
 9 Settlement Procedures Act (12 U.S.C. 2604(b)) is amend-
 10 ed by striking “and” at the end of paragraph (4), striking
 11 the period at the end of paragraph (5) and inserting
 12 “; and” and by adding after paragraph (5) the following:

13 “(6) an explanation of the fact that a mortgage
 14 broker may be compensated for its services provided
 15 in connection with the federally related mortgage
 16 loan with funds derived from (A) direct payments
 17 made by the borrower, (B) payments made by the
 18 lender that reflect the present value of interest yield-
 19 ed by the federally related mortgage loan, or (C) a
 20 combination of both the foregoing sources.”.

21 (c)(1) SECTION 5(c).—Section 5(c) of the Real Es-
 22 tate Settlement Procedures Act (12 U.S.C. 2604(c)) is
 23 amended by striking “the borrower is likely to incur” and
 24 inserting “likely to be imposed directly upon the bor-
 25 rower”.

1 (2) SECTION 5(c).—Section 5(c) of the Real Estate
2 Settlement Procedures Act (12 U.S.C. 2604(c)) is amend-
3 ed by inserting after paragraph (6) at the end thereof the
4 following: “The good faith estimate required by this sub-
5 section shall include the following statement in con-
6 spicuous type size: ‘If you obtain this loan, the lender will
7 have a mortgage on your home. You could lose your home,
8 and any money you have put into it, if you do not meet
9 your obligations under the loan.’”.

10 **SEC. 5. FEDERAL PREEMPTION.**

11 (a) IN GENERAL.—No requirement or prohibition
12 may be imposed under the laws of any State with respect
13 to the subject matter covered by the amendments made
14 by this Act, including limitations or prohibitions in connec-
15 tion with high-cost or high-fee mortgage loans for which
16 it is perceived that consumers should be afforded addi-
17 tional substantive protections.

18 (b) INTERPRETATION.—In response to a request
19 from any person, the Board of Governors of the Federal
20 Reserve System or any official or employee of the Board
21 of Governors of the Federal Reserve System duly author-
22 ized by the Board, shall promptly issue an interpretation
23 which determines whether the specific State laws that are
24 identified in such request are preempted by operation of

1 subsection (a). Any interpretation issued under this sub-
2 section shall have the effect of law.

3 **SEC. 6. EFFECTIVE DATE; IMPLEMENTING REGULATIONS.**

4 (a) EFFECTIVE DATE.—This Act and the amend-
5 ments made by this Act shall take effect 6 months after
6 the date of its enactment.

7 (b) REGULATIONS BY THE BOARD.—The Board of
8 Governors of the Federal Reserve System shall make such
9 regulations as are necessary to implement the amend-
10 ments made by section 3 within 120 days after the date
11 of its enactment.

12 (c) REGULATIONS BY THE SECRETARY OF HOUSING
13 AND URBAN DEVELOPMENT.—The Secretary of Housing
14 and Urban Development shall make such regulations as
15 are necessary to implement the amendments made by sec-
16 tion 4 within 120 days after the date of its enactment.

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